

**High Tech Interiors, Inc. and United Brotherhood
of Carpenters and Joiners of America, Local
No. 26, AFL-CIO. Case 1-CA-29531**

November 18, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

Upon a charge filed by United Brotherhood of Carpenters and Joiners of America, Local No. 26, AFL-CIO (the Union), the General Counsel of the National Labor Relations Board issued a complaint against High Tech Interiors, Inc. (the Respondent), alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On October 2, 1992, the General Counsel filed a Motion for Summary Judgment. On October 6, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Regional attorney, by letter dated September 15, 1992, notified the Respondent that unless an answer was received by September 22, 1992, a Motion for Summary Judgment would be filed.¹

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

¹ Copies of the charge, amended charge, complaint and notice of hearing, and the Regional attorney's letter of September 15, 1992, were served on the Respondent by certified mail, return receipt requested. A due and diligent search of the Regional Office files was made; the receipts are unavailable. Presumably these documents were not claimed by the Respondent, although the original documents were not returned to the Regional Office.

The Respondent's failure or refusal to claim certified mail cannot serve to defeat the purposes of the Act. See, e.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, with an office and place of business in Lynn, Massachusetts, has been engaged as a general contractor in the construction industry doing commercial construction. Annually, in conducting its business, the Respondent provided services valued in excess of \$50,000 for Pizzeria Uno, an enterprise within the Commonwealth of Massachusetts, which is directly engaged in interstate commerce. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees employed by the Employer as described in the collective bargaining agreement between the parties effective by its terms from June 1, 1989 through May 31, 1993.

On June 1, 1989, the Respondent granted recognition to the Union as the exclusive bargaining representative of the unit by entering into a collective-bargaining agreement with the Union for the period of June 1, 1989, to May 31, 1993, without regard to whether the majority status of the Union has ever been established under Section 9 of the Act.

For the period of June 1, 1989, to May 31, 1993, based on Section 8(f) of the Act, the Union is the exclusive representative for the purposes of collective bargaining of the employees in the unit.

Since about June 12, 1992, the Union has requested that the Respondent furnish the Union with information contained in a questionnaire (a copy of this request was attached as Exh. 1 to the complaint) that is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit. By failing and refusing to furnish the Union with the information requested by it, the Respondent has violated Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing to bargain with the Union by failing to furnish requested information necessary for, and relevant to, the Union's performance of its duties as the collective-bargaining representative of the unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act, specifically to furnish the Union the information requested.

ORDER

The National Labor Relations Board orders that the Respondent, High Tech Interiors, Inc., Lynn, Massachusetts, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively and in good faith by failing and refusing to provide information requested by United Brotherhood of Carpenters and Joiners of America, Local No. 26, AFL-CIO, on June 12, 1992, which is necessary for, and relevant to, its performance of its function as the exclusive representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain collectively with the Union by furnishing the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) Post at its facility in Lynn, Massachusetts, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily

posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT and refuse to bargain with United Brotherhood of Carpenters and Joiners of America, Local No. 26, AFL-CIO by refusing to provide information which is necessary for, and relevant to, its performance of its function as the exclusive representative of the unit employees.

WE WILL in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union by furnishing information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

HIGH TECH INTERIORS, INC.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."